

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RIEMA AULD,

Plaintiff,

v.

1:14-cv-00636-KG-SCY

CENTRAL NEW MEXICO COMMUNITY COLLEGE,
PAM ETRE-PEREZ, TOM PIERCE,
WILLIAM HEENAN, CAROL ADLER,
TOM MANNING, and KATHIE WINOGRAD,

Defendants.

ORDER DENYING MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL

THIS MATTER comes before the Court on Plaintiff's Motion to Proceed on Appeal Without Prepayment of Costs or Fees, Doc. 63, filed May 7, 2019. The Court DENIES the motion and CERTIFIES that Plaintiff's appeal is not taken in good faith.

On June 30, 2015, the Court dismissed Plaintiff's claims against Defendants. *See* Doc. 44. More than three years later Plaintiff filed: (i) a motion to reopen the case; (ii) a motion to appoint counsel; (iii) a motion to be entered in the Federal Witness Protection Program and for emergency attorney representation; and (iv) a motion for protection. *See* Doc. 45, filed November 1, 2018; Doc. 47, filed November 16, 2018; Doc. 52, filed November 30, 2018; Doc. 56, filed on January 22, 2019. The Court denied the motion to reopen the case and denied the motions for protection and to appoint counsel as moot. *See* Doc. 61 at 4, filed April 22, 2019. On May 7, 2019, Plaintiff filed a Notice of Appeal and a Motion to Proceed on Appeal Without Prepayment of Costs or Fees. *See* Doc's 62, 63.

“In order to succeed on [a motion for leave to proceed on appeal without prepayment of costs or fees], an appellant must show a financial inability to pay the required filing fees and the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal.” *DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991). “An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” 28 U.S.C. § 1915(a)(3). “The Supreme Court has held that good faith is to be judged by an objective standard, for review of any issue ‘not frivolous.’” *Spearman v. Collins*, 500 Fed.Appx. 742, 743 (10th Cir. 2012) (citing *Coppedge v. United States*, 369 U.S. 438, 445 (1962)). “An appeal is frivolous when the result is obvious, or the appellant’s arguments of error are wholly without merit.” *Id.*; see also *Thompson v. Gibson*, 289 F.3d 1218, 1222 (10th Cir. 2002) (“an appeal is frivolous if it lacks an arguable basis in either law or fact”).

Plaintiff’s Motion states her issues on appeal are:

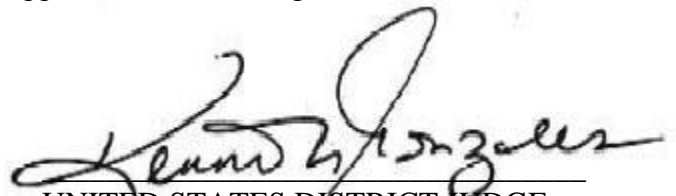
7/23/2018 Threat by business partner of Defendant CNM. Date 11/14/2018 Police Harrassment. Date 1/19/2019 Kidnap Beating Sexual Assault Murder Attempt. Disabled-Depression, not able to work. Not able to represent case as average person for pro se case representation. Continued obstruction of justice: medical experimentation sterilization, psychologist falsification of medical records murder, psychologist using therapy to legally advise.

Motion at 2. Plaintiff’s Notice of Appeal lists three issues on appeal which: (i) describe Plaintiff’s disability and medical issues; (ii) allege that one of her doctors advised Plaintiff not to pursue any legal complaint; (iii) discuss falsification of medical records; (iv) describe "continual harassment and murder attempt;" and (v) state: "Repeatedly I asked for a protective order & informed the court of my fear due to harassment. . . . The court ignored my request for an attorney and Protection Order. . . . I believe that I should have been granted witness protection and an attorney." Doc. 62 at 4-5, filed May 7, 2019.

The Court concludes that Plaintiff's appeal is not taken in good faith and that her motion for leave to proceed IFP must be denied because she has not identified a reasoned, nonfrivolous argument on the law and facts in support of her appeal of the Court's denial of her motions to reopen the case, for protection and to appoint counsel.

IT IS ORDERED that Plaintiff's Motion to Proceed In Forma Pauperis on Appeal, Doc. 63, filed May 7, 2019, is DENIED.

THE COURT CERTIFIES that Plaintiff's appeal is not taken in good faith.



UNITED STATES DISTRICT JUDGE